

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

21 Cr. 379 (VSB)

CARLOS ORENSE AZOCAR,
a/k/a "El Gordo,"

Defendant.

THE GOVERNMENT'S PROPOSED EXAMINATION OF PROSPECTIVE JURORS

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THE GOVERNMENT'S PROPOSED EXAMINATION OF POTENTIAL JURORS

The Government respectfully requests that the Court include the following questions in its examination of prospective jurors pursuant to Rule 24(a) of the Federal Rules of Criminal Procedure.

The Court is requested to pursue more detailed questioning at the sidebar or in the robing room if a particular juror's answer reveals that further inquiry is appropriate and, in such an instance, to conclude with an inquiry as to whether the particular fact or circumstance would influence the juror in favor of or against either the Government or the defendant, or otherwise affect the juror's ability to serve as a fair and impartial juror in this case.

A. The Charges

1. This is a criminal case. The defendant, Carlos Orense Azocar, has been charged in an Indictment filed by a grand jury sitting in this District with violating certain federal laws.

2. The Indictment is not evidence itself. It simply contains the charges that the Government is required to prove beyond a reasonable doubt. I would like to summarize the charges in this case briefly in order to determine whether there is anything about the nature of this case or the charges that may make it difficult or inappropriate for any of you to serve on the jury.

3. There are three separate charges or “counts” contained in the Indictment. Count One of the Indictment charges the defendant with participating in what is called a conspiracy, or an agreement, to violate the narcotics laws of the United States. Count Two of the Indictment charges the defendant with using or carrying firearms in connection with, or possessing firearms in furtherance of, the drug-trafficking crime charged in Count One. And Count Three of the Indictment charges the defendant with participating in a conspiracy to use or carry firearms in connection with, or to possess firearms in furtherance of, the drug-trafficking crime charged in Count One. At the end of the trial, I will provide you with more detailed instructions on all of the charges, including the differences between the completed offense and conspiracy counts in the Indictment.

4. Do any of you believe you have personal knowledge of the charges contained in the Indictment as I have described them? Have any of you read or heard anything about this case? If so, is there anything you have read or heard that would cause you to feel that you cannot decide the fact issues of this case fairly and impartially?

5. Do any of you feel that you have strong policy views on the crimes charged in the Indictment that would make it difficult for you to follow my instructions on the law and to base your verdict solely on the evidence in this case?

6. Do any of you have an opinion that any of the offenses charged in the Indictment, as I have summarized them for you, should not be a crime? Do any of you have any opinion about the enforcement of federal criminal laws related to firearms or drugs that might prevent you from being fair and impartial in this case? Do any of you have strong policy views on the crimes charged in the Indictment that make it difficult for you to follow my instruction on the law and to base your verdict solely on the evidence?

B. Ability to Render a Fair Verdict

7. The charges in this case involve narcotics trafficking and firearms offenses. Is there anything about the nature of these charges that would cause you to be unable to render a fair and impartial verdict in this case?

8. Do you have any views regarding, or experience with, cocaine or the laws governing the sale or distribution of cocaine or other drugs that would hinder or prevent you from rendering a fair and impartial verdict?

9. Have you or anyone you are close to ever been charged with a crime or been a witness of a crime involving illegal drugs?

10. Has anyone you are close to ever suffered from a drug addiction, overdosed, or died of a fatal overdose?

11. Do you have any views regarding, or experience with, firearms or the laws governing firearms that would hinder or prevent you from rendering a fair and impartial verdict?

12. Do any of you believe that the government should not limit a person's right to bear arms?

13. Have you ever owned a firearm? If so, for what reason? Has anyone in your family, or anyone you live with, ever owned a firearm? If so, for what reason?

14. Have any of you, or has any member of your family, ever lobbied, petitioned, or worked in any other manner for or against any laws or regulations relating to firearms or gun control? If so, when and what did you do?

15. Have any of you ever supported or belonged to any organizations involved in such work?

16. Have you or anyone you are close to ever been charged with a crime or been a victim or witness of a crime involving firearms?

17. Does the fact that some of the charges involve allegations of conspiracy affect your ability to render a fair and impartial verdict?

C. Law Enforcement Witnesses

18. Some of the witnesses in this case may include law enforcement agents and/or other government employees. Would any of you be more likely to believe or disbelieve a witness merely because he or she is a law enforcement agent or employed by the Government?

D. Accomplice Witnesses

19. You may hear testimony in this case from an accomplice or cooperating witness, that is, a witness who at one time was involved in illegal activity, but who has admitted that he or she committed various crimes and is testifying pursuant to an agreement with the Government. I will instruct you that the use of such accomplice witnesses is perfectly legal and is often a necessary law enforcement tool. Do any of you have any experience with or feelings about the use of cooperating witnesses generally, or the use of evidence or information obtained from such witnesses, that would make it difficult for you to render a fair and impartial verdict if you heard testimony from a cooperating witness?

E. Knowledge of the Trial Participants

20. Do any of you know, or have any of you had any dealings, directly or indirectly, with Carlos Orense Azocar, the defendant, or with any relative, friend, or associate of the defendant?

21. Do any of you have any relatives, friends, associates, or employers who know or have had any dealings with the defendant?

22. The Government is represented here, as in all cases where it is a party before the Court, by the United States Attorney for the Southern District of New York, who is Damian Williams. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Kaylan Lasky, Michael Lockard, and Kevin Sullivan. They will be assisted by William Sirmon, a paralegal specialist in the United States Attorney's Office, and Drug Enforcement Administration, or DEA, Special Agents Daniel Brooks and Matthew Passmore. Do any of you know Ms. Lasky, Mr. Lockard, Mr. Sullivan, Mr. Sirmon, Special Agent Brooks, or Special Agent Passmore? Have you had any dealings either directly or indirectly with any of these individuals?

23. The defendant is represented by attorneys Jason Foy and Eric Sarraga, and [paralegal]. Do any of you know Mr. Foy, Mr. Sarraga, or [paralegal], or have you had any dealings, either directly or indirectly, with them, including their law firm, Foy & Seplowitz LLC?

24. Do you know any other prospective member of this jury?

F. Relevant Witness and Locations

25. Does any juror know or has he or she had any dealings, either directly or indirectly, with any of the following individuals who may be called as witnesses or whose names may come up during the trial:

[list to be provided]

26. I expect that you will hear that much, if not all, of the conduct at issue in this case occurred outside of the United States. United States law provides that persons engaged in conduct occurring outside the United States nevertheless may be prosecuted in United States courts for certain violations of American federal law. Would it affect your ability to fairly and impartially render a verdict in this case if the evidence for the charged conduct includes conduct that took place outside of the United States?

27. Certain conduct at issue in this case took place at various locations, including the following:

[list to be provided]

Are any of you familiar with these general areas or these specific locations? What do you know about the area? Do you think that your familiarity with the area will affect your ability to render a fair verdict?

G. Relationship With Government

28. Do any of you know, or have any association – professional, business, or social, direct, or indirect – with any member of the staff of the United States Attorney’s Office for the Southern District of New York, the Drug Enforcement Administration (also known as the DEA), Homeland Security Investigations (also known as HSI), or the United States Coast Guard (also known as the Coast Guard)? Has any juror had any contact with any of those agencies? Is any member of your family employed by any federal department or agency, or any law enforcement agency, whether federal, state, or local?

29. Does any juror have any bias, prejudice, or other feelings for or against the United States Attorney’s Office, the U.S. Department of Justice, the DEA, HSI, or the Coast Guard, or any other law enforcement agency?

30. Have you, or has any member of your family, either as an individual, or in the course of business, ever been a party to any legal action or dispute with the United States, or with any of the officers, departments, agencies, or employees of the United States? Have any of you had any legal, financial or other interest in any such legal action or dispute, or its outcome?

H. Prior Jury Service

31. Have you ever, at any time, served as a member of a grand jury, whether federal, state, county, or city court?

32. Have you ever served as a juror in any court? If so, when and in what court did you serve and was it a civil or criminal case? Did the jury reach a verdict?

I. Experience as a Witness, Defendant, or Crime Victim

33. Have you or anyone you are close to ever been charged with a crime or been a victim or witness of a crime involving illegal drugs or firearms?

34. Have you or anyone with whom you are close ever been a victim, witness or a complainant in any prosecution, state or federal, or ever been arrested or charged with a crime?

J. Function of the Court and Jury

35. The function of the jury is to decide questions of fact. As a juror, you are the sole judge of the facts and nothing that the Court or the attorneys say or do may intrude in any way on your role as the exclusive fact finder. However, when it comes to the law, you are to take your instructions from the Court and you are bound by those instructions. You may not substitute your ideas of what the law is or what you may think the law should be. At the conclusion of this case, your job will be to determine whether or not the defendant is guilty as charged in the Indictment. Do any of you have any bias or prejudice that might prevent or hinder you from accepting the instructions of law that I will give you in this case?

36. Will each of you accept the proposition that the question of punishment is for the Court alone to decide, and that any possible punishment – including mandatory minimum sentences and sentencing enhancements – must not enter into your deliberations as to whether the defendant is guilty or not guilty?

37. Will each of you accept the proposition of law that sympathy must not enter into the deliberations of the jurors as to whether the defendant is guilty or not guilty, and that only the evidence produced here in Court may be used by you to determine whether the defendant is guilty or not guilty?

38. It is not a particularly pleasant duty to find another individual guilty of committing a crime. Do any of you feel that even if the evidence established the defendant's guilt beyond a reasonable doubt, you might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

39. Do you speak Spanish? One or more of the witnesses in this trial will testify using the Spanish language. That testimony will be translated for you by a court-certified interpreter. Even if you speak Spanish, you are obligated under the law to accept as binding the translations of witness testimony provided to you by the court-certified interpreter. Would you be unwilling or unable to follow the Court's instruction on this subject?

K. Other Questions

40. Do any of you have any problems with your hearing or vision, or other medical problems, that would prevent you from giving full attention to all of the evidence at this trial?

41. Are any of you taking any medication that prevents you from giving full attention to all of the evidence at this trial?

42. Do any of you have any difficulty in reading or understanding English in any degree?

43. Do any of you have any religious, philosophical, or other beliefs that would make you unable to render a guilty verdict for reasons unrelated to the law and the evidence?

44. Have you, or has anyone close to you, ever studied or practiced law?

45. In these questions, I have tried to direct your attention to possible reasons why you might not be able to serve as a fair and impartial juror. Aside from the previous questions I have asked, do any of you have the slightest doubts in your own mind, for any reason whatsoever, that you will not be able to conscientiously, fairly, and impartially serve in this case and to render a true and just verdict without fear, favor, sympathy, or prejudice, and according to the law as it would be explained to you?

L. Juror's Background

46. The Government respectfully requests that the Court ask each juror to state the following information:

- a) the juror's family status;
- b) the juror's current town of residence or neighborhood if the juror resides in New York City;
- c) the juror's educational background;
- d) whether the juror has served in the military;
- e) the juror's current occupation and length of employment with that employer;
- f) the same information with respect to the juror's spouse and any working children;
- g) any foreign countries visited in the last five years;
- h) the newspapers, magazines, and websites the juror reads and how often;

- i) the television programs the juror regularly watches; and
- j) the juror's hobbies or leisure-time activities and organizations.

Dated: New York, New York
November 13, 2023

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: _____ /s/
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